

2008 looks like being the same as 2006 and 2007, only longer

Please contact us if you have any questions regarding this Newsletter



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Overleaf:

Going into Administration

Teleos Case

VAT Registrations

Asset Recovery Agency

No end in sight for many companies

For many companies that are yet to receive a decision, it must be very deflating to think another year has gone, without any sign of movement. Some of CTM clients have been waiting for 23 months for the verification to be complete and some traders only have one or two transactions to verify.

We have recently advised one client that they may have to wait a further year or two until a decision is reached. Even if Customs felt, after seeing more decisions, that they will win all cases, it is unlikely that the flow of decisions could be any quicker. The backlog is being felt both at the Customs Solicitors Office and the Tribunals and, with all the good will in the world, nothing will force a quicker pace.

The longer this goes on, the less money companies have to fight any future negative decision. For example, some CTM clients had sufficient funds a year ago to fight an appeal, but now, at best, they can only muster the most basic of appeals. Many are requesting we submit appeals and then delay proceedings as long as possible so that they can look at more Tribunal decisions before committing significant funds to a full hearing, and we can understand this. However, we still maintain that companies will win in Tribunal and that each case will be judged on its own merits. Furthermore, we always give a fair appraisal of a trader's chances of success and often point out significant problem areas. We continue to do this, although we find nearly all companies continue with the appeal anyway as there is so much at stake.

Our advice is to put in an appeal and to at least prepare detailed witness statements, which are required early on in proceedings. Once you have got through this hurdle, you can sit back a little and wait. If you do not prepare your evidence well, it will cause you significant problems at your hearing. However, we do understand that some companies have no money for this and won't get investment until people can see some success.

The contra trading argument should be settled, in the Tribunals at least, by February 2008 and may produce some good news for companies where no fraud exists. We'll keep you updated.

If you wish to keep an eye on all decisions coming out, you can log onto:

<http://www.financeandtaxtribunals.gov.uk/asp/>

This will bring you the latest decisions from the VAT & Duties Tribunal and you should scroll down and look for categories "VAT – INPUT TAX" for means of knowledge cases.



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Next Edition:

Further Decisions

Other Relevant Industry News

Teleos Case

Much progress has been made on this case and CTM clients are, as a result of the ECJ decision, going back to the Tribunals for a decision. This has already seen a quick success and repayment of VAT, and is likely to lead to more,

Minister States VAT Registrations Are Getting Quicker

This is particularly relevant to companies developing new ideas and a Minister stated that, in August 2007, it took 42 days to become VAT registered, 39 days if applying in September and 28 days in October.

This is all very well, but if you have any previous connection with the wholesaling of any commodity, your cards are marked and it will continue to take many months to get a new VAT number, if you get one at all.

The link, below, is a recent Tribunal decision on a trader who took Customs on when they refused to register them for VAT, and CTM are in the process of preparing a similar appeal.

<http://www.financeandtaxtribunals.gov.uk/judgmentfiles/j3613/20467.doc>

Asset Recovery Agency Merges with Serious Organised Crime Agency

We have had many calls on this subject, regarding what we can only describe as a little scaremongering by certain firms.

It's quite simple, if you are involved in fraud, you may have your assets seized. There is no more to worry about now than there was last year. There are no new powers, only a greater determination to recover the benefits of fraud. The Serious Organised Crime Agency has taken over the responsibility for this, but has not received new powers that could lead to innocent traders losing their homes.

Three of CTM's staff, when still working for Customs, were Asset Recovery Agency ("ARA") accredited financial investigators and we know exactly what powers they have and, more reassuringly, what powers they don't have.

Such is the rumour circulating, some companies believe that, if they appealed their input tax decision, they may have their homes and other assets seized if they lose. ARA, to quote from their website, is there "to take the profit out of crime, through civil recovery action, criminal confiscation or taxation. It's not there to seize assets simply because you don't agree with their decision, whether it's a means of knowledge case or not. Please see their website, below, for more information.

<http://www.assetsrecovery.gov.uk/WhatWeDo/>

If you are at all worried, please feel free to give us a call.